

Interim Report: Jail Alternatives Study

**Dakota County Jail Alternatives Committee
January 2004**

1. Divert Some Non-violent Offenders from Jail

Description: (What is this?)

Divert select non-violent offenders such as "white collar crime", driving without a license, 5th degree drugs, operating a vehicle on suspended or revoked license and other misdemeanors where incarceration is not necessary. Police would refrain from jailing individuals unless they present a flight risk or a clear and present danger to the community (i.e., violent offenses) or are unable to prove their identity.

Method: (How could this be implemented?)

- Issue citations and establish station house release procedures (e.g., notices-to-appear and desk appearance tickets) to divert some arrestees from jail intake.
- "Bail out" with whatever dollars are in their pocket and set a future court date. Give option with summons on where offender can book and release to ensure that the offender "show-up."
- Have non-person offenses plea at 1st appearance
- Jail refuses admissions selectively:
 - Use conditional release for some offenders (i.e., misdemeanors, non-violent offenders, DUI or DWI less than 20)
 - Use Electronic Home Monitoring (for domestic assaults use EHM at an alternate address).

Impact: (What would be the consequences?)

- According to the 2003 Jail Snapshot (a detailed look at inmates on three different days in 2003 - January 15, March 15 and May 15), 34% of the 520 reviewed inmates have no felony charges. Of the total population, 10% are pre-trial and without current felony charges; 21% are sentenced without current felony charges; and 3% are on hold for other jurisdictions without any current felony charges. (Inmates on hold for other jurisdictions are not eligible for diversion from jail and must be held until they are retrieved by the holding jurisdiction or until charges from the holding jurisdiction are dropped.)
- Among the pre-trial population without current felony charges in the Jail Snapshot, almost none would have been eligible for jail diversion. Almost 56% of the pre-trial inmates without felony charges were held on mandatory arrest and booking charges of DUI/DWI or domestic assault. (An additional 4% were held on assault charges that may have been domestic violence related.) Approximately 31% were arrested and booked due to an outstanding warrant and would not have been eligible for jail diversion. Nearly 6% were booked but released the following day with charges of driving after revocation. Thus, 2-3% of the pre-trial without current felony population might be eligible for jail diversion. It is important to weigh this against the amount of effort that would be required to identify eligibility among this population.

- Out of 520 total inmates reviewed on three different days in 2003 - January 15, March 15 and May 15 - 109 inmates were sentenced without a felony charge in the 2003 snapshot. Of the 109 sentenced without a felony charge:
 - The median length of stay was 25 days.
 - Only 10 individual (9%) had a length of stay less than 4 days.
 - 99 individuals (91%) stayed more than 4 days.

Some of the most significant drivers of bed days at the jail (identified in the Jail Study) were drug enforcement prosecution, probation violations and the impact of legislation related to DUI/traffic. Some offenders in these categories are in the non-violent category. More research needs to be done to fully assess potential impact but following is some data from the snapshot.

Offenses charged: categorized by each inmate's "worst" charge. Of the 109:

- 41 had DUI/DWI (38%)
- 16 were Domestic Assault / Violence (15%)
- 12 were DAR/DAC (11%)
- 10 were Traffic-- Moving Violations (9%)
- 7 had violated OFP (6%)
- 5 disturbing the peace (5%)
- 3 assaults (<3%)
- 3 parole or probation violations (<3%)
- 3 theft (<3%)
- 2 underage drinking (<2%)
- 1 no proof of insurance (<1%)
- 1 fleeing an officer (<1%)
- 1 contempt of court (<1%)
- 1 controlled sub 5 (<1%)
- 1 obstruction of the legal process (<1%)
- 1 terroristic threats (<1%)

Comments:

- Only 2-3% of the pre-trial without current felony population might be eligible for jail diversion.
- Requires clearly written guidelines including eligibility criteria and procedures.
- Requires police and prosecutor cooperation.
- Some local police have book and release capacity (currently Eagan, Apple Valley, and Burnsville).
- Expand use of this option by allowing neighboring police departments to use book and release of departments already having capability.

2. Divert More Offenders with Mental Illness and Substance Abuse

Description: (What is this?)

Police, prosecutors, judges, defense and community corrections expand ways and means to divert some persons with mental illness/substance abuse from jail to treatment.

Method: (How could this be implemented?)

- Expand options such as increasing the number of designated beds at Regions Hospital (currently two beds are available)
- Better coordination with County Social Services Department to identify mental health/substance abuse treatment options and refer offenders appropriately
- Consider establishing a Drug Court

Impact: (What would be the consequences?)

- Fewer persons with mentally illness and chronic substance abuse would be incarcerated, more persons with mental illness/substance abuse would be treated, rehabilitated and less likely to offend in the future.
- There has been a significant increase in bed-days associated with increased enforcement and prosecution of drug laws since 1996, 10,100 bed-days increase for the years 1996-2001. (Jail Study)
- The Jail Study reported that "...anecdotal reports suggest that at least 90 bed-days were spent in 2002 as a single inmate waited for a mental competency evaluation from doctors at the state hospital in St. Peter, Minnesota." The total number of incidents/jail bed days for similar situations is unknown but should be a subject of further study.
- The 2003 Jail Snapshot showed that 36% of all inmate have a history of mental illness and 23% are treated with psychotropic medication while in jail. The most commonly reported mental health issues include: depression, anxiety, mood disorders, personality disorders, and sleep disorders.
- Thirty-eight percent of inmates of the Dakota County jail reported chemical (drug or alcohol) health issues. It is likely that the true percentage is somewhat higher since many inmates do not volunteer this information. In fact, 43% of all inmates are charged with a crime involving drugs or alcohol (including narcotics charges as well as DUI and DWI charges). Overall, 55% of all inmates reported having a chemical issue and/or were charged with a crime involving drugs or alcohol.
- Overall, chemical or mental health issues affect at least 2/3rd of the jail population. The population of inmates that reported a chemical health issue, were charged with a drug or alcohol crime, and/or had a mental health diagnosis accounted for 66% of the 2003 Jail Snapshot population. Additionally, nearly 1/5 (19%) of the population has both substantiated mental health and chemical health issues.

Comments:

- Currently, it is easy to identify offenders with mental health/chemical health problems but difficult to find treatment for them.
- Capacity problem (space is an issue, Dakota County only has 2 beds at Regions).
- Some offenders with mental health issues pose a public safety risk and should still be incarcerated.

3. Pretrial: Expedite Process and Expand Services

Description: (What is this?)

Expedite Pretrial Process: Increase early and periodic screening of pretrial offenders to insure that offenders incarcerated really need to be held in the jail. Move offenders more quickly through the pretrial process to minimize pretrial incarceration time.

Expand Pretrial Services: Increase options for use with pretrial population

Method: (How could this be implemented?)

Expedite Pretrial Process:

- Look at expediting long-term pretrial offenders; review all cases at 90 day intervals
- Identify the charges relating to those inmates who are held over than 150 days to check if severity of charge justifies continued incarceration.
- Selective fast tracking/early case resolution of some offenders
- Jail and case flow information improvements:
 - Expedite Pre Sentence Investigations (PSI's)
 - Expedite most serious/chronic defendants
 - Expedite mental illness defendant process (obstacle: St. Peter is slow).
- Implement 24hour/7day-a-week bail evaluation process ("Rocket Docket")
- Expand evening/weekend "phone" hearings.
- Provide more information to prosecutor and court.
- Establish warrant screener/special population position – filter out "low level" warrant offenders
- Annual blanket request for police reports to be attached to the complaint for the Public Defender (to eliminate 7-10 day lag to receive report after 1st appearance).
- Appoint Public Defender earlier in the process (study impact; feasibility)
- Divert first time defendants (i.e. domestic assault defendants @ 1st appearance where victim has not been seriously injured)
- Expand the Domestic Abuse Response Team "DART" currently in place in Burnsville.
- Expedite evidentiary reports from crime labs (or find alternate crime labs?); use screening process instead of full lab analysis (lower cost). Create a multi-county process.
- Police divert low-level offenders; study a uniform set of criteria

Expand Pretrial Services:

- Expand use of Conditional Release.
 - Currently only for DWI/DUI; consider some drug offenders with Vera scores of 9+
 - 50% of those eligible (approximately 15 per month) actually do conditional release.
 - "High" bail amounts preventing defendants from being released.
 - Investigate expanding beyond DWI/DUI (i.e., drug related)

Pretrial: Expedite Process and Expand Services (continued)

Impact: (What would be the consequences?)

- Reduce average pretrial incarceration to be more consistent with other counties. (There is a longer-than-average pretrial stay in Dakota County - average of 85 days in other counties, average 122 days in Dakota County).
- Of the total five-year increase in bed days filled at the Dakota County Jail of 24,000 bed-days (1996-2001), a significant number- 5,600 bed days - were related to pretrial incarceration.
- A March, 2003 jail population snapshot review of pretrial offenders showed that changes in eligibility for Electronic Home Monitoring (EHM) could result in potential savings in jail bed-days.

Including the Current Pre-trial Charge in Risk Calculation (annual impacts)

Analysis of the 2003 Jail Snapshot work concluded that approximately 4 pre-trial inmates would be eligible for Electronic Home Monitoring (EHM) per day (based on their risk factors). This would be a savings of 1,460 bed-days per year (or 2% of the total annual jail bed-days). Since EHM is paid for by the inmate, this would result in a savings of between \$90,000 and \$160,000, depending on contracted daily cost for boarding inmates at facilities outside of Dakota County. (Contracted amounts have varied in the past from a low of \$55 per day to \$90 per day, depending on the specific facility. Adding the labor cost for processing and transporting these inmates, the total cost per day per inmate ranges from about \$64 to \$110.)

If a pre-trial program were available that had risk requirements similar to the current requirements for STS, approximately 9 additional inmates (13 total including the 4 eligible for more stringent EHM) per day would be eligible, based on the analysis of 2003 jail snapshot work. This could result in an additional savings of 3,285 bed-days per year and an estimated financial savings of between \$210,000 and \$361,000 per year-- depending on the rate that would be charged by other facilities for boarding out inmates. It is important to note that this savings would be off-set by the potentially high costs of designing, implementing, and administering a new pre-trial program by Community Corrections.

Not Including the Current Pre-trial Charge in Risk Calculation (annual impacts)

If the current charge was not included in the risk calculation (based on the assumed innocence of a pre-trial person), approximately 11 pre-trial inmates would be eligible for EHM per day. This would result in a savings of about 4,015 bed-days per year (or 5% of the total annual jail bed-days) and an estimated financial savings of between \$257,000 and \$442,000 per year-- depending on the rate that would be charged by other facilities for boarding out inmates.

If the current charge was not included in the risk calculation for a program with requirements similar to STS, approximately 4 additional inmates (15 total including the 11 eligible for more stringent EHM) per day would be eligible. This could result in an additional savings of 1,460 bed-days per year and an estimated financial savings of between \$93,000 and \$161,000-- depending on the rate that would be charged by other facilities for boarding out inmates. Again, consider the additional costs that would be borne by Community Corrections.

Snapshot (three days) for inmates that were pre-trial and without a felony:

There were 52 inmates out of the 520 total who were in jail during the snapshot on a pre-trial basis and without a felony charge. Of those 52 (representing 10% of the snapshot population total):

- 18 were DUI/DWI (required arrest and booking and first appearance by judge)
- 16 had a warrant
- 11 were charged with domestic assault (required arrest and booking and first appearance by judge)
- 7 had none of the above

Of the 7 who did not have DUI/ DV, or a warrant:

- 2 were charged with Assault 5 and served 38/45 days
- 1 was charged with Driving After Cancellation and served 7 days
- 3 were charged with DAC/DAR and served 1 day
- 1 was charged with a crime against public order and served 37 days

If we assume that the assault 5 inmates were fairly serious and that the 1 day DAC/DARs are not worth worrying about, we are left with only 2 people. This suggests that the pre-trials without felony are in jail for a good reason and that we can't do much about them.

Comments:

- Increasing opportunities for offenders with higher risk scores to be eligible for EHM, STS or other non-incarceration programs may increase risk to the community while these offenders are not incarcerated.
- Some methods require more resources, i.e., added Community Corrections staff
- An argument can be made for keeping pre-trial offenders incarcerated within the County rather than boarding these individuals out. There have been reported delays in the processing of some offenders as a result of these offenders being detained in non-County facilities.

4. Expand Community Corrections Service Capacity

Description: (What is this?)

Expand capacity of Community Corrections resulting in better decision-making information to criminal justice system and new or expanded alternatives to incarceration.

Method: (How could this be implemented?)

Provide better decision-making information

- Conduct "Mini-PSI's".
- Provide more capacity for Community Corrections to do full PSI's.
- Conduct risk assessments provided earlier in the process.
- Better information sharing/communication (i.e., identify duplication of efforts).

Provide more/expand alternatives to incarceration

- More STS crews (on weekends and in the evenings).
- Expand programs for the increase in people going through the courts.
- Recombine tools (EHM, field visits, drug testing, alcohol monitoring) to manage higher risk offenders.

Impact: (What would be the consequences?)

- Better, more timely information may result in fewer number of total days incarcerated.
- More non-jail sanctions may result in less pressure on jail, reduced need to rent jail beds from other jurisdictions.

Comments:

- Difficult to add staff in Community Corrections due to state/county budget shortages.
- Any additions to staff or programs would need to show a positive cost benefit.
- Add staff in Community Corrections of the Jail to assist with offender transition to community.